

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED

JUL 13 2010

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature] DEPUTY CLERK

JAMES R. WALL, VICKIE L. WALL and
JAMES W. BAGBY, individually and
on behalf of themselves and as
representatives of a class of all others
similarly situated,

Plaintiffs

v.

CIVIL NO. SA-09-CA-637-OG

DEBT RELIEF GROUP, LLC, THE
PALMER FIRM, P.C., THE SEIDEMAN
LAW FIRM, P.C., EPIC FINANCIAL
MANAGEMENT, INC., ROBERT ANCEL
PALMER, III, SCOTT R. SEIDEMAN,
GREGORY M. FITZGERALD and
KEITH J. WARING,

Defendants

**ORDER ACCEPTING MAGISTRATE JUDGE'S
RECOMMENDATION OF DISMISSAL**

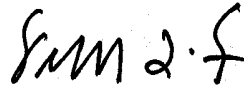
On this date, the Court considered the report and recommendation of United States Magistrate Judge Pamela A. Mathy, wherein she recommended that Defendant Debt Relief Group, LLC's Rule 12(b)(6) motion to dismiss be granted. (Dkt. # 84). Plaintiffs filed objections to the recommendation and incorporated a motion for leave to amend their complaint a fourth time. (Dkt. # 86).

The Court has conducted an independent review of the record and has reviewed the applicable law. See 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b). The Court concludes that Plaintiffs' objections should be OVERRULED and the Magistrate Judge's recommendation to dismiss all claims against Defendant Debt Relief Group, LLC should be ACCEPTED.

It is therefore ORDERED that Defendant Debt Relief Group's Rule 12(b)(6) motion to dismiss (Dkt. # 77) is GRANTED, and all claims asserted against Defendant Debt Relief Group, LLC are DISMISSED with prejudice.¹

It is further ORDERED that all other pending motions are DENIED as moot, including: Defendant's motion to transfer venue (Dkt. # 77), Plaintiffs' motion for class certification (Dkt. # 39), and Plaintiffs' motion for leave to file fourth amended complaint (Dkt. # 86).² Costs may be taxed against Plaintiffs, and final judgment may be entered in accordance herewith.³

SIGNED and ENTERED on the 13 day of July, 2010.



ORLANDO L. GARCIA
UNITED STATES DISTRICT JUDGE

¹A Rule 12(b)(6) dismissal is with prejudice. The Magistrate Judge obviously made a clerical error in stating "without prejudice."

²Plaintiffs' motion for leave to amend their complaint a fourth time was clearly a belated and meager attempt to avoid imminent dismissal. Leave is not granted automatically, and Plaintiffs have already had three bites at the apple. There was undue delay in seeking leave, Plaintiffs had a dilatory motive, the amendment would be futile, and Defendant would be prejudiced by yet another amendment, especially in light of the Magistrate Judge's recommendation of dismissal.

³All other claims were previously resolved.